

being replaced was built before the Tier 1 standards started to apply and engines of that size are currently subject to Tier 3 standards, you must consider whether any Tier 1 or Tier 2 engines that you produce have the appropriate physical and performance characteristics for replacing the old engine; if you can produce a Tier 2 engine with the appropriate physical and performance characteristics, you must use it as the replacement engine.

(3) You must notify us within 30 days after you ship each replacement engine under this section. Your notification must include all the following things and be signed by an authorized representative of your company:

(i) A copy of your records describing how you made the determination described in paragraph (a)(2) of this section for this particular engine.

(ii) The total number of replacement engines you have shipped in the applicable calendar year, from all your marine engine models.

(iii) The following statement:

I certify that the statements and information in the enclosed document are true, accurate, and complete to the best of my knowledge. I am aware that there are significant civil and criminal penalties for submitting false statements and information, or omitting required statements and information.

(4) The replacement engine must conform to the applicable requirements of 40 CFR part 1043. Note that 40 CFR 1043.10 specifies allowances for vessels that operate only domestically.

(b) Modifying a vessel to significantly increase its value within six months after installing a replacement engine produced under this section is a violation of 40 CFR 1068.101(a)(1).

(c) We may void an exemption for an engine if we determine that any of the conditions described in paragraph (a) of this section are not met.

(d) We may reduce the reporting and recordkeeping requirements in this section.

[73 37243, June 30, 2008, as amended at 73 FR 59194, Oct. 8, 2008; 75 FR 23006, Apr. 30, 2010]

§ 1042.620 Engines used solely for competition.

The provisions of this section apply for new Category 1 engines and vessels built on or after January 1, 2009.

(a) We may grant you an exemption from the standards and requirements of this part for a new engine on the grounds that it is to be used solely for competition. The requirements of this part, other than those in this section, do not apply to engines that we exempt for use solely for competition.

(b) We will exempt engines that we determine will be used solely for competition. The basis of our determination is described in paragraphs (c) and (d) of this section. Exemptions granted under this section are good for only one model year and you must request renewal for each subsequent model year. We will not approve your renewal request if we determine the engine will not be used solely for competition.

(c) Engines meeting all the following criteria are considered to be used solely for competition:

(1) Neither the engine nor any vessels containing the engine may be displayed for sale in any public dealership or otherwise offered for sale to the general public. Note that this does not preclude display of these engines as long as they are not available for sale to the general public.

(2) Sale of the vessel in which the engine is installed must be limited to professional racing teams, professional racers, or other qualified racers. For replacement engines, the sale of the engine itself must be limited to professional racing teams, professional racers, other qualified racers, or to the original vessel manufacturer.

(3) The engine and the vessel in which it is installed must have performance characteristics that are substantially superior to noncompetitive models.

(4) The engines are intended for use only as specified in paragraph (e) of this section.

(d) You may ask us to approve an exemption for engines not meeting the criteria listed in paragraph (c) of this section as long as you have clear and convincing evidence that the engines will be used solely for competition.

(e) Engines are considered to be used solely for competition only if their use

is limited to competition events sanctioned by the U.S. Coast Guard or another public organization with authorizing permits for participating competitors. Operation of such engines may include only racing events, trials to qualify for racing events, and practice associated with racing events. Authorized attempts to set speed records are also considered racing events. Engines will not be considered to be used solely for competition if they are ever used for any recreational or other non-competitive purpose. Use of exempt engines in any recreational events, such as poker runs and lobsterboat races, is a violation of 40 CFR 1068.101(b)(4).

(f) You must permanently label engines exempted under this section to clearly indicate that they are to be used only for competition. Failure to properly label an engine will void the exemption for that engine.

(g) If we request it, you must provide us any information we need to determine whether the engines are used solely for competition. This would include documentation regarding the number of engines and the ultimate purchaser of each engine as well as any documentation showing a vessel manufacturer's request for an exempted engine. Keep these records for five years.

[75 FR 23006, Apr. 30, 2010]

§ 1042.625 Special provisions for engines used in emergency applications.

This section describes an exemption that is available for certain Category 1 and Category 2 engines. This exemption is not available for Category 3 engines.

(a) Except as specified in paragraph (d) of this section, the prohibitions in § 1068.101(a)(1) do not apply to a new engine that is subject to Tier 4 standards if the following conditions are met:

(1) The engine is intended for installation in one of the following vessels or applications:

(i) A lifeboat approved by the U.S. Coast Guard under approval series 160.135 (see for example 46 CFR 199.201(a)(1)), as long as such a vessel is not also used as a launch or tender.

(ii) A rescue boat approved by the U.S. Coast Guard under approval series

160.156 (see for example 46 CFR 199.202(a)).

(iii) Generator sets or other auxiliary equipment that qualify as final emergency power sources under 46 CFR part 112.

(2) The engine meets the Tier 3 emission standards specified in § 1042.101 as specified in 40 CFR 1068.265.

(3) The engine is used only for its intended purpose, as specified on the emission control information label.

(b) Except as specified in paragraph (d) of this section, the prohibitions in § 1068.101(a)(1) do not apply to a new engine that is subject to Tier 3 standards according to the following provisions:

(1) The engine must be intended for installation in a lifeboat or a rescue boat as specified in paragraph (a)(1)(i) or (ii) of this section.

(2) This exemption is available from the initial effective date for the Tier 3 standards until the engine model (or one of comparable size, weight, and performance) has been certified as complying with the Tier 3 standards and Coast Guard requirements.

(3) The engine must meet the Tier 2 emission standards specified in Appendix I of this part as specified in 40 CFR 1068.265.

(c) If you introduce an engine into U.S. commerce under this section, you must meet the labeling requirements in § 1042.135, but add one of the following statements instead of the compliance statement in § 1042.135(c)(10):

(1) For lifeboats and rescue boats, add the following statement:

THIS ENGINE DOES NOT COMPLY WITH CURRENT U.S. EPA EMISSION STANDARDS UNDER 40 CFR 1042.625 AND IS FOR USE SOLELY IN LIFEBOATS OR RESCUE BOATS (COAST GUARD APPROVAL SERIES 160.135 OR 160.156). INSTALLATION OR USE OF THIS ENGINE IN ANY OTHER APPLICATION MAY BE A VIOLATION OF FEDERAL LAW SUBJECT TO CIVIL PENALTY.

(2) For engines serving as final emergency power sources, add the following statement:

THIS ENGINE DOES NOT COMPLY WITH CURRENT U.S. EPA EMISSION STANDARDS UNDER 40 CFR 1042.625 AND IS FOR USE SOLELY IN EMERGENCY EQUIPMENT REGULATED BY 46 CFR 112. INSTALLATION OR USE OF THIS ENGINE IN ANY OTHER APPLICATION MAY BE A